

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF THE CINCINNATI SMSA	)	
LIMITED PARTNERSHIP FOR THE ISSUANCE OF A	)	
CERTIFICATE OF PUBLIC CONVENIENCE AND	)	
NECESSITY TO CONSTRUCT A NEW CELL FACILITY	)	CASE NO. 93-255
FOR ITS DOMESTIC PUBLIC CELLULAR RADIO	)	
TELECOMMUNICATIONS SERVICE IN RYLAND	)	
HEIGHTS KENTUCKY, IN THE KENTUCKY PORTION	)	
OF THE CINCINNATI MSA	)	

O R D E R

On September 7, 1993, Cincinnati SMSA Limited Partnership ("Cincinnati SMSA") filed an application seeking a Certificate of Public Convenience and Necessity to build and operate a cellular radio telecommunications system for the Cincinnati Metropolitan Service Area ("Cincinnati MSA"). The Cincinnati MSA includes Boone, Campbell, and Kenton counties in Kentucky. Cincinnati SMSA has requested authorization to construct a cell site in Kenton County. Cincinnati SMSA was previously granted authority to operate a cellular radio telecommunications system in the Cincinnati MSA in Case No. 8916.<sup>1</sup>

The proposed cell site consists of a 285-foot or less self-supporting antenna tower to be located at 312 Decoursey Pike Road,

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<sup>1</sup> The Application of the Cincinnati SMSA Limited Partnership for the Issuance of a Certificate of Public Convenience and Necessity to Provide a New Domestic Public Cellular Radio Telecommunications Service to the Public in the Greater Cincinnati Metropolitan Area Including All, or Parts of, Butler, Clermont, Hamilton, and Warren Counties in Ohio, Boone, Campbell, Gallatin, and Kenton Counties in Kentucky.

in Ryland Heights, Kentucky ("the Ryland Heights cell site"). The coordinates for the Ryland Heights cell site are North Latitude 38° 57' 16" by West Longitude 84° 27' 55".

Cincinnati SMSA has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Ryland Heights cell site. Based upon the application, the design of the tower and foundation appears to meet the criteria of the Building Officials and Code Administrators International, Inc. National Building Code with reference to earthquakes, winds, and tornadoes.

Pursuant to KRS 100.324(1), the Ryland Heights cell site's construction is exempt from local zoning ordinances. Cincinnati SMSA has filed applications with the Federal Aviation Administration ("FAA") and the Kentucky Airport Zoning Commission ("KAZC"). The FAA has approved the site while the KAZC application is still pending.

Cincinnati SMSA has filed notices verifying that each property owner or resident within 500 feet of the Ryland Heights cell site has been notified of the pending construction. The notice solicited any comments and informed the property owners and residents of their right to intervene. On July 28, 1993, the Commission received an inquiry letter from Charles A. Price. On August 2, 1993, the Commission received an inquiry letter from Ellsworth W. Gebhardt, Sr. On August 4, 1993, Cincinnati SMSA was ordered by the Commission to respond to Mr. Ellis. On August 5, 1993, Cincinnati SMSA was ordered by the Commission to respond to

Mr. Gebhardt. The Commission concurrently notified Mr. Price and Mr. Gebhardt of their right to intervene. To date, no intervention requests have been received.

Pursuant to KRS 278.280, the Commission is required to determine proper practices to be observed when it finds, upon complaint or on its own motion, that the facilities of any utility subject to its jurisdiction are unreasonable, unsafe, improper, or insufficient. To assist the Commission in its efforts to comply with this mandate, Cincinnati SMSA should notify the Commission if it does not use this antenna tower to provide cellular radio telecommunications services in the manner set out in its application and this Order. Upon receipt of such notice, the Commission may, on its own motion, institute proceedings to consider the proper practices, including the removal of the unused antenna tower, which should be observed by Cincinnati SMSA.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Cincinnati SMSA should be granted a Certificate of Public Convenience and Necessity to construct and operate the proposed cell site in the Cincinnati MSA under its previously approved tariff.

IT IS THEREFORE ORDERED that:

1. Cincinnati SMSA be and it hereby is granted a Certificate of Public Convenience and Necessity to construct and operate the proposed Ryland Heights cell site consisting of a 285-foot or less self-supporting antenna tower to be located at 312 Decoursey Pike Road, in Ryland Heights, Kenton County, Kentucky. The coordinates


for the proposed Ryland Heights cell site are North Latitude 38° 57' 16" by West Longitude 84° 27' 55".

2. Cincinnati SMSA shall file a copy of the final decision regarding its pending KAZC application for the Ryland Heights cell site within 10 days of receiving this decision.

3. Cincinnati SMSA shall immediately notify the Commission in writing, if, after the antenna tower is built and utility service is commenced, the tower is not used for a period of 3 months in the manner authorized by this Order.

Done at Frankfort, Kentucky, this 4th day of November, 1993.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director